IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

PRESENT
THE HON'BLE SRI JUSTICE A. GOPAL REDDY

WRIT PETITION No.23832 of 1995

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Date: 19.12.2006

Between:

Rallabandi Satyanarayana Murthy

... PETITIONER

AND

The Secretary and Correspondent,
The Hindu College, Machilipatnam,
Krishna District.

.....RESPONDENT

THE HON'BLE SRI JUSTICE A. GOPAL REDDY

WRIT PETITION No.23832 of 1995

ORDER:

By means of Article 226 of the Constitution of India, the petitioner seeks to appoint him on compassionate grounds as a Lecturer or in any suitable post in the respondent college.

It is stated that the father of the petitioner, who was employed in the respondent college as Head of the Department of Botany, died on 06.12.1994, while he was in service. It is also stated that the petitioner is a postgraduate having passed M.Com in first class and qualified to be appointed as a Lecturer. Hence, he made a representation to the respondent college seeking to appoint him on compassionate basis. It is further stated that in view of G.O.Ms.No.281, Education (J) Department, dated 25.05.1985, issued by the Government extending the benefits of compassionate appointment to the teaching and non-teaching staff of Aided College (Degree/Junior/Oriental, Colleges of Education and Colleges of Physical Education), the case of the petitioner has to be considered for such appointment. Hence, the writ petition.

The respondent college filed a counter affidavit admitting that the petitioner's father died while he was in service. In the counter affidavit, it is stated that the petitioner submitted an application on 23.01.1995 seeking appointment in any suitable post under the scheme of compassionate appointment. It is also stated that there was a vacancy of Record Assistant in the respondent college. The petitioner has submitted his willingness for appointment to the said post, and his family members had also given No Objection Certificate

for appointment of the petitioner. A formal notification was sent to the Employment Exchange and permission of the Collector has also been sought for. A clarification was sought for from the Director of Higher Education, Hyderabad, whether such an appointment could be made by the management, and if so, whether grant would be allowed by the Government. The Director of Higher Education clarified that if the proposal satisfies the condition stipulated in G.O.Ms.No.281, dated 25.05.1995, permission of the Collector may be obtained and then necessary proposals be sent to the Director, Higher Education for further action. When the matter was pending consideration, the petitioner filed this writ petition. It is further stated that as per G.O.Ms.No.281 compassionate appointment should be made only to the category of post the pay of which is equal to or less than that of a Lower Division Clerk. Therefore, the claim of the petitioner for appointment as Lecturer is untenable. It is further stated that there is only one vacancy of Record Assistant, for which, the petitioner had given his consent. Hence, the petitioner is not entitled to any other post.

The learned counsel for the respondent college produced a letter, dated 22.12.2005, which goes to show that the petitioner, who was appointed as Record Assistant, was selected by the Departmental Promotion Committee for promotion as Typist, and the same has been approved by the Director of Collegiate Education, Andhra Pradesh, Hyderabad, though proceedings in L.Dis.No.1183/Admn.VI-1/2005 from the date of taking charge.

In view of the same and once the petitioner has accepted for appointment to the post of Record Assistant and was appointed in the said post, it is not necessary to go into the maintainability of the writ petition as contended by the learned counsel appearing for the respondent college. Suffice it to say that compassionate appointment can be made only as per the scheme envisaged, but cannot de hors scheme and the scheme provides for appointment to the post of Lower

Division Clerk or equivalent. Merely because the petitioner is qualified for the post of Lecturer, he cannot claim compassionate appointment to the said post, which has to be filled up by the Selection Committee constituted by the Director of School Education.

It is well settled that the object of compassionate appointment is to enable the penurious family of the deceased employee to tide over the sudden financial crisis and to provide employment. Mere death of the deceased does not entitle his family to compassionate appointment for the post, which they are eligible.

In view of the same, no *mandamus* can be issued to appoint the petitioner as Lecturer or any suitable post.

The Writ Petition is accordingly dismissed. There shall be no order as to costs.

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A. Gopal Reddy, J

Date 19.12.2006

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